



DALLAS COUNTY
DISTRICT ATTORNEY
JOHN VANCE

November 25, 1992

File # RQ-00618-DM
ID# 22803

Hon. Dan Morales
Attorney General of Texas
P.O. Box 12548
Capitol Station
Austin, TX 78711

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Opinion Committee

RE: Opinion Request

RQ-618

Dear Attorney General Morales:

On November 5, 1992, our office received the following request from Bill Long, District Clerk of the Criminal Department of Dallas County, asking us to seek an Attorney General opinion, as follows:

"As a member of the Legislative Committee, District Clerk's Association of Texas, I have been charged with the responsibility of seeking an Attorney General opinion for the following questions:

- 1) Is a pre-indictment Writ of Habeas Corpus a civil matter?
- 2) If so, can the appropriate civil filing fee be collected at the time of filing a pre-indictment Writ of Habeas Corpus?

The procedure by which pre-indictment Writs are handled is not uniform statewide. ..."

In some smaller counties, the pre-indictment writs of habeas corpus filed by attorneys seeking release of their clients from jail while awaiting grand jury proceedings or indictment have been treated as civil matters, and the district clerks have been collecting civil filing fees. Because there is no agreement among the district clerks upon this issue, there is a perceived need for an opinion from your office.

Thank you for your attention to this matter, Attorney General Morales. If you have further questions, please contact me.

Yours sincerely,

Teresa Tolle

Teresa Tolle
Assistant District Attorney
Dallas County, Texas

cc: Bill Pool
Assistant District Attorney
Dallas County, TX

Bill Long
District Clerk
Criminal Department
Dallas County, TX